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E.O. 12356: N/A

TAGS: PHUM, PREL, BY, UN, UNSC, PGOV

SUBJECT: BURUNDI COMMISSION OF INQUIRY RESOLUTION

REF: (A) STATE 156617 (B) USUN-IO/UNP FAX 7/31/95
(C) USUN 2949

1. DECONTROL UPON RECEIPT - SENSITIVE BUT UNCLASSIFIED.
PROTECT ACCORDINGLY.

2. (U) THIS IS AN ACTION MESSAGE. SEE PARAS. 4 AND 5.

3. (U) THE USG STRONGLY SUPPORTS CREATION OF A UN
COMMISSION OF INQUIRY TO INVESTIGATE AND REPORT ON THE
OCTOBER 1993 ASSASSINATIONS OF THE PRESIDENT OF BURUNDI
AND OTHER BURUNDI OFFICIALS, AND THE ETHNIC VIOLENCE THAT
HAS TAKEN THOUSANDS OF LIVES SINCE THEN. CREATION OF SUCH
A COMMISSION WILL WARN THOSE WHO MIGHT BE CONTEMPLATING A
RETURN TO GENOCIDAL VIOLENCE THAT THEY WILL NOT BE ALLOWED
TO ACT WITH IMPUNITY. REF B CONTAINS THE TEXT OF THE
SYG'S REPORT TO THE UNSC RECOMMENDING ESTABLISHMENT OF THE
COMMISSION OF INQUIRY. IT IS IN ACCORD WITH THE USG
RECOMMENDATION CONTAINED IN REFTTEL A. THE MAJOR CHANGE IS
THAT THE SYG RECOMMENDS THAT THE COMMISSION'S MANDATE
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EXTEND FROM OCTOBER, 1993 TO THE DATE OF THE RESOLUTION
CREATING IT. WE AGREE WITH HIS RECOMMENDATIONS.

4. (U) USUN SHOULD TABLE A RESOLUTION TO CREATE THE
COMMISSION. SUGGESTED LANGUAGE FOR THE RESOLUTION FOLLOWS
IN PARA. 6. THIS DRAFT RESOLUTION ADOPTS LANGUAGE
CONTAINED IN THE SYG'S REPORT. USUN SHOULD ALSO PROPOSE
THE TERMS OF REFERENCE IN PARA. 7 TO APPROPRIATE PERSONS
IN THE SECRETARIAT FOR THEIR CONSIDERATION AS THEY DRAFT

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THE COMMISSION'S TERMS OF REFERENCE
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5. (U) EMBASSY BUJUMBURA AND POSTS IN UNSC MEMBER STATES SHOULD CONTACT APPROPRIATE OFFICIALS TO SEEK SUPPORT FOR THE UNSC RESOLUTION CREATING THE COMMISSION OF INQUIRY. TALKING POINTS ARE CONTAINED IN PARA. 8.

6. (U) BEGIN TEXT OF DRAFT UN SECURITY COUNCIL RESOLUTION.

THE SECURITY COUNCIL,

HAVING CONSIDERED THE REPORT OF THE PREPARATORY FACT-FINDING MISSION TO BURUNDI DATED 20 MAY 1994 (S/1995/157),

HAVING FURTHER CONSIDERED THE REPORT OF THE SECURITY COUNCIL'S MISSION TO BURUNDI DATED 9 MARCH 1995 (S/1995/163),

RECALLING THE STATEMENT BY THE PRESIDENT OF THE SECURITY COUNCIL OF 29 MARCH 1995 (S/PRST/1995/13), IN WHICH THE
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SECURITY COUNCIL, INTER ALIA, UNDERLINED THE ROLE THAT COULD BE PLAYED IN BURUNDI BY AN INTERNATIONAL COMMISSION OF INQUIRY INTO THE 1993 COUP ATTEMPT AND INTO THE MASSACRES THAT FOLLOWED,

WELCOMING THE LETTER OF THE SECRETARY-GENERAL TO THE PRESIDENT OF THE SECURITY COUNCIL DATED 28 JULY 1995 (S/1995/631) RECOMMENDING THAT THE COMMISSION OF INQUIRY SHOULD BE CREATED BY RESOLUTION OF THE SECURITY COUNCIL,

DEEPLY CONCERNED THAT IMPUNITY CREATES CONTEMPT FOR LAW, AND LEADS TO VIOLATIONS OF HUMAN RIGHTS,

EXPRESSING ONCE AGAIN ITS GRAVE CONCERN AT REPORTS INDICATING THAT SYSTEMATIC, WIDESPREAD AND FLAGRANT VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW HAVE BEEN COMMITTED IN BURUNDI,

RECALLING THAT ALL PERSONS WHO COMMIT OR AUTHORIZE THE

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COMMISSION OF SERIOUS VIOLATIONS OF INTERNATIONAL
HUMANITARIAN LAW ARE INDIVIDUALLY RESPONSIBLE FOR THOSE
VIOLATIONS AND SHOULD BE HELD ACCOUNTABLE,

1. REQUESTS THE SECRETARY-GENERAL TO ESTABLISH, AS A
MATTER OF URGENCY, AN IMPARTIAL INTERNATIONAL COMMISSION
OF INQUIRY, WITH THE FOLLOWING MANDATE:

(A) TO ESTABLISH THE FACTS RELATING TO THE ASSASSINATION
OF THE PRESIDENT OF BURUNDI ON 21 OCTOBER 1993, THE
MASSACRES WHICH FOLLOWED AND OTHER SERIOUS ACTS OF
VIOLENCE AND POLITICAL CRIMES COMMITTED BETWEEN THAT DATE
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AND THE DATE OF THIS RESOLUTION,

(B) TO RECOMMEND MODALITIES FOR THE TRIAL AND PUNISHMENT
OF PERSONS IDENTIFIED BY THE COMMISSION AS BEING
RESPONSIBLE FOR OFFENCES INVESTIGATED BY IT, AND

(C) TO RECOMMEND MEASURES OF A LEGAL, POLITICAL OR
ADMINISTRATIVE NATURE, INCLUDING MEASURES REQUIRING
LEGISLATIVE OR CONSTITUTIONAL REFORM, TO PREVENT ANY
REPETITION OF DEEDS SIMILAR TO THOSE INVESTIGATED BY THE
COMMISSION AND, IN GENERAL, TO ERADICATE IMPUNITY IN
BURUNDI;

2. RECOMMENDS THAT THE COMMISSION OF INQUIRY SHALL BE
COMPOSED OF THREE RESPECTED AND IMPARTIAL INTERNATIONAL
JURISTS WHO SHALL BE SELECTED BY THE SECRETARY-GENERAL;

3. CALLS UPON STATES AND, AS APPROPRIATE, INTERNATIONAL
HUMANITARIAN ORGANIZATIONS TO COLLECT SUBSTANTIATED
INFORMATION IN THEIR POSSESSION RELATING TO SERIOUS
VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW, COMMITTED IN
BURUNDI FROM OCTOBER, 1993 TO THE DATE OF THIS RESOLUTION,
AND REQUESTS STATES, RELEVANT UNITED NATIONS BODIES, AND
RELEVANT ORGANIZATIONS TO MAKE THIS INFORMATION AVAILABLE
WITHIN THIRTY DAYS OF THE ADOPTION OF THE PRESENT
RESOLUTION AND AS APPROPRIATE THEREAFTER, AND TO PROVIDE
APPROPRIATE ASSISTANCE TO THE COMMISSION OF INQUIRY
REFERRED TO IN PARAGRAPH 1;

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4. REQUESTS THE SECRETARY-GENERAL TO REPORT TO THE
COUNCIL ON THE ESTABLISHMENT OF THE COMMISSION OF INQUIRY,
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AND FURTHER REQUESTS THE SECRETARY-GENERAL, WITHIN THREE
MONTHS FROM THE ESTABLISHMENT OF THE COMMISSION OF
INQUIRY, TO SUBMIT AN INTERIM REPORT TO THE COUNCIL ON THE
CONCLUSIONS OF THE COMMISSION CONCERNING WHETHER PERSONS

IDENTIFIED BY IT AS BEING RESPONSIBLE FOR MASSACRES AND
OTHER POLITICAL CRIMES SHOULD BE BROUGHT TO TRIAL AND
WHETHER THEIR TRIALS SHOULD BE ORGANIZED BY THE BURUNDESE
JUDICIAL SYSTEM OR BY AN INTERNATIONAL TRIBUNAL;

5. CALLS UPON THE GOVERNMENT OF BURUNDI, AND ALL
CONCERNED, FULLY TO COOPERATE WITH THE COMMISSION OF
INQUIRY IN THE ACCOMPLISHMENT OF ITS MANDATE, INCLUDING
RESPONDING POSITIVELY TO REQUESTS FROM THE COMMISSION FOR
SECURITY, ASSISTANCE AND ACCESS IN PURSUING
INVESTIGATIONS, INCLUDING:

(A) ADOPTION BY THE GOVERNMENT OF BURUNDI OF ANY MEASURES
NEEDED FOR THE COMMISSION AND ITS PERSONNEL TO CARRY OUT
THEIR FUNCTIONS THROUGHOUT THE NATIONAL TERRITORY WITH
FULL FREEDOM, INDEPENDENCE AND SECURITY,

(B) PROVISION BY THE GOVERNMENT OF BURUNDI OF ALL
INFORMATION IN ITS POSSESSION WHICH THE COMMISSION
REQUESTS OR IS OTHERWISE NEEDED TO CARRY OUT ITS MANDATE,
AND FREE ACCESS FOR THE COMMISSION AND ITS STAFF TO ANY
OFFICIAL ARCHIVES,

(C) FREEDOM FOR THE COMMISSION TO OBTAIN ANY INFORMATION
THE COMMISSION CONSIDERS RELEVANT AND TO USE ALL SOURCES
OF INFORMATION WHICH THE COMMISSION CONSIDERS USEFUL AND
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RELIABLE,

(D) FREEDOM FOR THE COMMISSION TO INTERVIEW, IN PRIVATE,
ANY PERSONS THE COMMISSION JUDGES NECESSARY,

(E) FREEDOM FOR THE COMMISSION TO VISIT ANY ESTABLISHMENT
OR PLACE WITHOUT PRIOR NOTICE;

(F) GUARANTEE BY THE GOVERNMENT OF BURUNDI OF FULL RESPECT
FOR THE INTEGRITY, SECURITY AND FREEDOM OF WITNESSES,
EXPERTS AND ANY OTHER PERSONS WHO HELP THE COMMISSION IN
ITS WORK;

6. REQUESTS THE SECRETARY-GENERAL TO ASSIGN A SECURITY
DETAIL TO THE OFFICE OF HIS SPECIAL REPRESENTATIVE IN
BURUNDI, FOR THE PURPOSE OF CONTRIBUTING, IN COOPERATION
WITH THE GOVERNMENT OF BURUNDI, TO THE SECURITY OF HIS
SPECIAL REPRESENTATIVE AND THE COMMISSION OF INQUIRY;

7. REQUESTS THE SECRETARY GENERAL TO ESTABLISH A TRUST
FUND TO RECEIVE VOLUNTARY CONTRIBUTIONS TO FINANCE THE
COMMISSION OF INQUIRY;

8. URGES STATES AND INTERGOVERNMENTAL AND
NON-GOVERNMENTAL ORGANIZATIONS TO CONTRIBUTE FUNDS,
EQUIPMENT AND SERVICES TO THE COMMISSION OF INQUIRY¹
INCLUDING THE OFFER OF EXPERT PERSONNEL;

9. DECIDES TO REMAIN ACTIVELY SEIZED OF THE MATTER.

END TEXT OF DRAFT UNSC RESOLUTION.
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7. (U) BEGIN TEXT OF PROPOSED TERMS OF REFERENCE FOR THE
COMMISSION OF INQUIRY.

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O MANDATE

THE COMMISSION SHALL INVESTIGATE THE ASSASSINATIONS OF THE PRESIDENT OF BURUNDI, THE PRESIDENT OF THE NATIONAL ASSEMBLY, AND OTHER BURUNDI GOVERNMENT OFFICIALS IN OCTOBER 1993 AND THE MASS MURDERS AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW WHICH OCCURRED FROM OCTOBER 1993 THROUGH AUGUST, 1995. SPECIFICALLY, THE COMMISSION SHALL:

(A) ESTABLISH THE FACTS RELATING TO THE ASSASSINATION OF THE PRESIDENT OF BURUNDI ON 21 OCTOBER 1993, THE MASSACRES WHICH FOLLOWED AND OTHER SERIOUS ACTS OF VIOLENCE AND POLITICAL CRIMES COMMITTED BETWEEN THAT DATE AND THE DATE OF THE RESOLUTION CREATING THE COMMISSION,

(B) RECOMMEND MODALITIES FOR THE TRIAL AND PUNISHMENT OF PERSONS IDENTIFIED BY THE COMMISSION AS BEING RESPONSIBLE FOR OFFENCES INVESTIGATED BY IT, AND

(C) RECOMMEND MEASURES OF A LEGAL, POLITICAL OR ADMINISTRATIVE NATURE, INCLUDING MEASURES REQUIRING LEGISLATIVE OR CONSTITUTIONAL REFORM, TO PREVENT ANY REPETITION OF DEEDS SIMILAR TO THOSE INVESTIGATED BY THE
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COMMISSION AND, IN GENERAL, TO ERADICATE IMPUNITY IN
BURUNDI.

THE PURPOSE OF THE COMMISSION'S INVESTIGATION SHALL BE TO DETERMINE THE PERPETRATORS AND VICTIMS OF THE VIOLATIONS, AND TO RECOMMEND WHAT STEPS SHOULD BE TAKEN UNDER INTERNATIONAL AND DOMESTIC LAW TO BRING THOSE WHO COMMITTED THESE CRIMES TO JUSTICE.

THE FOCUS OF THE COMMISSION'S WORK SHALL BE ON THOSE WHO BEAR THE GREATEST CULPABILITY FOR THESE VIOLATIONS, INCLUDING THOSE WHO ORGANIZED, INSTIGATED, OR COMMITTED THE MASSACRES AND THE ASSASSINATIONS.

THE COMMISSION WILL OBTAIN INFORMATION FROM ALL SOURCES INCLUDING MILITARY? IN ORDER TO:

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(A) WITHIN THREE MONTHS FROM THE ESTABLISHMENT OF THE COMMISSION OF INQUIRY, SUBMIT AN INTERIM REPORT TO THE UN SECURITY COUNCIL ON THE CONCLUSIONS OF THE COMMISSION CONCERNING WHETHER PERSONS IDENTIFIED BY IT AS BEING RESPONSIBLE FOR MASSACRES AND OTHER POLITICAL CRIMES SHOULD BE BROUGHT TO TRIAL AND WHETHER THEIR TRIALS SHOULD BE ORGANIZED BY THE BURUNDESE JUDICIAL SYSTEM OR BY AN INTERNATIONAL TRIBUNAL;

(B) PROVIDE EVIDENCE OF SUFFICIENT QUALITY AND PARTICULARITY THAT IT COULD BE USED FOR TRIAL BY THE NATIONAL COURTS OF BURUNDI OR AN INTERNATIONAL TRIBUNAL;

(C) PREPARE A FINAL REPORT TO THE SECRETARY GENERAL, THE LIMITED OFFICIAL USE

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SECURITY COUNCIL, AND THE BURUNDI GOVERNMENT OFFERING RECOMMENDATIONS AS TO MEASURES WHICH COULD BE TAKEN TO RESPOND TO THE COMMISSION'S FINDINGS SUCH AS SANCTIONS, REPARATIONS AND GOVERNMENTAL REFORMS, AS WELL AS MEASURES TO EXPEDITE JUDICIAL PROCEEDINGS AGAINST SUSPECTED PERPETRATORS;

(D) DISTRIBUTE ITS REPORT PUBLICLY, BOTH IN BURUNDI AND INTERNATIONALLY, AND TO THE PROSECUTOR GENERAL OF BURUNDI.

O INDEPENDENCE OF COMMISSION

THE COMMISSION, COMMISSIONERS AND MEMBERS OF THE COMMISSION'S STAFF SHALL FUNCTION WITHOUT POLITICAL OR OTHER BIAS OR INTERFERENCE AND SHALL BE INDEPENDENT AND SEPARATE FROM ANY PARTY, GOVERNMENT, ADMINISTRATION OR ANY OTHER FUNCTIONARY OR BODY DIRECTLY OR INDIRECTLY REPRESENTING THE INTERESTS OF ANY SUCH ENTITY;

COMMISSIONERS AND MEMBERS OF THE COMMISSION'S STAFF SHALL SERVE IMPARTIALLY AND INDEPENDENTLY IN THEIR INDIVIDUAL CAPACITIES, AND SHALL PERFORM THEIR DUTIES IN GOOD FAITH AND WITHOUT FEAR, FAVOR, BIAS OR PREJUDICE;

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COMMISSIONERS SHALL WORK FULL-TIME FOR THE DURATION OF THE COMMISSION'S WORK.

COMMISSIONERS AND MEMBERS OF THE COMMISSION'S STAFF SHALL ENJOY THOSE PRIVILEGES AND IMMUNITIES, EXEMPTIONS AND FACILITIES ACCORDED TO DIPLOMATIC AGENTS UNDER THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS DONE AT VIENNA
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ON 18 APRIL 1961, INCLUDING IMMUNITY FROM ARREST OR CONFINEMENT, AS WELL AS IMMUNITY FOR THEIR OFFICES, VEHICLES, DOCUMENTS, BAGGAGE, AND LODGING PLACES.

O COMPOSITION OF THE COMMISSION

THE COMMISSION OF INQUIRY SHALL BE COMPOSED OF THREE RESPECTED AND IMPARTIAL INTERNATIONAL JURISTS WHO SHALL BE SELECTED BY THE SECRETARY-GENERAL.

O STAFFING

THE COMMISSION SHALL HAVE AN ADEQUATE PROFESSIONAL STAFF FROM THE INTERNATIONAL COMMUNITY INCLUDING PROSECUTORS, CRIMINAL INVESTIGATORS, FORENSIC EXPERTS AND MANAGERS.

O POWERS OF THE COMMISSION

THE COMMISSION SHALL HAVE THE POWER TO CARRY OUT SUCH INVESTIGATIONS IN BURUNDI AS IT MAY DEEM NECESSARY TO ATTAIN ITS OBJECTIVES INCLUDING THE POWER TO:

REQUIRE ANY PERSON BY NOTICE IN WRITING TO APPEAR BEFORE THE COMMISSION AT A TIME AND PLACE SPECIFIED IN SUCH NOTICE IN ORDER TO PROVIDE TESTIMONIAL EVIDENCE AND TO PRODUCE ALL ARTICLES INCLUDING INFORMATION, DOCUMENTS, AND RECORDS] IN THE POSSESSION OR CUSTODY OR UNDER THE CONTROL OF ANY SUCH PERSON WHICH MAY BE DEEMED RELEVANT TO THE COMMISSION'S INVESTIGATIONS;

REQUIRE BY NOTICE IN WRITING THE PRODUCTION OF AN
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ARTICLE INCLUDING INFORMATION, DOCUMENTS, AND RECORDS] IN
THE CUSTODY OR UNDER THE CONTROL OF THE STATE, ANY
DEPARTMENT OF THE STATE OR ANY PERSON IN THE SERVICE OR
ACTING ON BEHALF OF THE STATE WHICH IS DEEMED RELEVANT TO
THE COMMISSION'S FUNCTIONS AND POWERS;

REQUIRE ANY PERSON WHO GIVES EVIDENCE BEFORE THE
COMMISSION TO TAKE AN OATH OR MAKE AN AFFIRMATION;

TO APPEAR AT ANY OFFICE, ENTITY OR ABODE UNANNOUNCED,
FOR THE PURPOSE OF GATHERING EVIDENCE RELATED TO ITS
INVESTIGATIONS;

CONVENE MEETINGS AT ANY PLACE WITHIN BURUNDI FOR THE
PURPOSE OF HEARING EVIDENCE WITH REGARD TO ANY MATTER
RELATED TO ITS INVESTIGATIONS;

ON ITS OWN INITIATIVE OR AT THE REQUEST OF ANY
INTERESTED PERSON, TO INQUIRE INTO ANY MATTER FALLING
WITHIN ITS TERMS OF REFERENCE;

TO ENJOY COMPLETE AND UNRESTRICTED FREEDOM OF MOVEMENT
WITHIN BURUNDI TO CONDUCT ITS INVESTIGATIONS.

O PROCEDURES TO BE FOLLOWED BY COMMISSION

THE COMMISSION SHALL DETERMINE FAIR PROCEDURES TO BE
FOLLOWED DURING THE INVESTIGATIONS AND HEARINGS OF THE
COMMISSION, PROVIDED THAT ALL HEARINGS, DELIBERATIONS AND
EVIDENCE OBTAINED ARE KEPT CONFIDENTIAL AND OCCUR IN
PRIVATE UNTIL THE COMPLETION OF THE COMMISSION'S WORK.

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ALL RECORDS AND ARCHIVES CONTAINING NAMES OR OTHER INFORMATION THAT COULD BE USED TO IDENTIFY WITNESSES SHALL REMAIN CONFIDENTIAL AND SHALL BE GUARDED IN A SECURE PLACE OUTSIDE OF BURUNDI TO BE DESIGNATED BY THE SECRETARY GENERAL.

WITNESSES MAY, IF THEY CHOOSE, BE REPRESENTED BY COUNSEL. PRIOR TO QUESTIONING ANY WITNESS, THE COMMISSION SHALL APPRISE SUCH WITNESS OF HIS OR HER RIGHTS, INCLUDING THE RIGHT TO AN ATTORNEY. THE COMMISSION MAY APPOINT A LEGAL REPRESENTATIVE TO APPEAR ON BEHALF OF THE PERSON CONCERNED IF IT IS SATISFIED THAT THE PERSON IS NOT FINANCIALLY CAPABLE OF PROVIDING SUCH COUNSEL ON HIS OR HER OWN.

IF DURING AN INVESTIGATION OR HEARING BEFORE THE COMMISSION, ANY PERSON IS IMPLICATED IN A MANNER WHICH MAY BE TO HIS OR HER DETRIMENT, AND THE COMMISSION INTENDS TO PUBLISH SUCH INFORMATION, THE COMMISSION SHALL, IF SUCH A PERSON IS AVAILABLE AND WILLING, AFFORD SUCH PERSON THE OPPORTUNITY TO SUBMIT REPRESENTATIONS REGARDING THE MATTER

UNDER CONSIDERATION WITHIN A SPECIFIED TIME PERIOD OR TO GIVE REBUTTAL EVIDENCE BEFORE A HEARING OF THE COMMISSION PRIOR TO TAKING ANY OFFICIAL ACTION.

O COMPLETION OF REPORTS BY COMMISSION

THE COMMISSION SHALL REPORT MONTHLY TO THE SECRETARY GENERAL ON THE PROGRESS OF ITS WORK, AND PARTICULARLY ON
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THE COOPERATION BY BURUNDI GOVERNMENT AUTHORITIES IN
IMPLEMENTING ITS WORK AND ITS RECOMMENDATIONS.

THE COMMISSION SHALL ENDEAVOR TO COMPLETE ITS INVESTIGATIONS WITHIN A PERIOD OF SIX MONTHS FROM THE DATE OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTION CREATING IT. THREE MONTHS FROM ITS CREATION, THE COMMISSION SHALL SUBMIT AN INTERIM REPORT TO THE SECRETARY GENERAL CONCERNING WHETHER PERSONS IDENTIFIED BY IT AS BEING

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RESPONSIBLE FOR MASSACRES AND OTHER PELODICAL CRIMES
SHOULD BE BROUGHT TO TRIAL AND WHETHER THEIR TRIAL SHOULD
BE ORGANIZED BY THE BURUNDESE JUDICIAL SYSTEM OR BY AN
INTERNATIONAL TRIBUNAL.

THE COMMISSION SHALL, WITHIN ONE MONTH FROM THE
COMPLETION OF ITS INVESTIGATIONS, PUBLICLY RELEASE ITS
FINAL REPORT, INCLUDING ANY APPENDICES THERETO1 EXCEPT FOR
SPECIFIC PORTIONS WHOSE RELEASE WOULD, IN THE OPINION OF
THE COMMISSION, IMPAIR THE PROSECUTIONS OF PERSONS
RESPONSIBLE FOR ACTS WITHIN THE COMMISSION'S TERMS OF
REFERENCE. THE COMMISSION SHALL ALSO SUBMIT ITS FINAL
REPORT TO THE PROSECUTOR GENERAL OF BURUNDI FOR
APPROPRIATE JUDICIAL ACTION.

O BUDGET

TO SUPPORT ITS WORK, THE COMMISSION SHALL BE GIVEN AN
ADEQUATE BUDGET RAISED FROM VOLUNTARY CONTRIBUTIONS OF THE
MEMBER STATES AND INTERGOVERNMENTAL AND NON-GOVERNMENTAL
ORGANIZATIONS, INCLUDING ADMINISTRATIVE SUPPORT, ACCESS TO
COMPUTERS, VEHICLES, FORENSIC EQUIPMENT AND ALL OTHER
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NECESSARY SUPPLIES.

END TEXT OF PROPOSED TERMS OF REFERENCE.

8. (U) POSTS MAY WISH TO DRAW FROM THE FOLLOWING TALKING
POINTS IN EXPLAINING THE NEED FOR THE COMMISSION.

BEGIN TALKING POINTS:

-- BURUNDI IS SPIRALLING DOWNWARD INTO INCREASED
VIOLENCE, WITH EXTREMISTS ON BOTH SIDES COMMITTING MURDER
WITH IMPUNITY.

-- THE JUDICIAL SYSTEM IN BURUNDI IS PERCEIVED BY HUTUS AS
BIASED. ITS JUDGES ARE MOSTLY TUTSIS AND THEY SELDOM
CONVICT TUTSIS FOR CRIMES COMMITTED AGAINST HUTUS.

-- THE CONVENTION OF GOVERNMENT SIGNED BY ALL MAJOR

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PARTIES CALLS FOR A COMMISSION OF INQUIRY TO INVESTIGATE
AND DETERMINE RESPONSIBILITY FOR THE ASSASSINATION IN
OCTOBER 1993 OF THE PRESIDENT OF BURUNDI AND THE KILLINGS
THEREAFTER.

-- THE PRESIDENT OF BURUNDI HAS ASKED FOR AN INTERNATIONAL
COMMISSION BECAUSE IT WOULD BE IMPARTIAL AND WOULD CARRY
THE AUTHORITY OF THE INTERNATIONAL COMMUNITY.

-- THE SECRETARY-GENERAL OF THE UNITED NATIONS RECOMMENDS
ESTABLISHMENT OF A COMMISSION OF INQUIRY TO INVESTIGATE
THE ASSASSINATIONS AND OTHER GROSS VIOLATIONS OF HUMAN
RIGHTS IN BURUNDI SINCE OCTOBER, 1993.

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-- WE BELIEVE THAT THE COMMISSION SHOULD BE APPOINTED AS
SOON AS POSSIBLE. WE ALSO BELIEVE THAT A COMMISSION NAMED
BY THE UNITED NATIONS SECRETARY GENERAL WILL HAVE THE
GREATEST AUTHORITY AND WILL HAVE THE GREATEST EFFECT.

-- WE HAVE CONSIDERED WHETHER AN INVESTIGATION MIGHT BE
DESTABILIZING, BUT ON BALANCE WE BELIEVE IT WILL BE A
LONG-TERM STABILIZER. WE BELIEVE THAT THE COMMISSION OF
INQUIRY WILL SERVE TO PUT ON NOTICE THOSE WHO ARE
CONTEMPLATING FURTHER VIOLENCE THAT THEY WILL NOT BE
ALLOWED TO ACT WITH IMPUNITY.

-- THE COMMISSION WILL BE A STEP TOWARD FURTHER
ESTABLISHMENT OF THE RULE OF LAW IN BURUNDI.
TARNOFF

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